United Nations A/HRC/39/NGO/23

General Assembly

Distr.: General
29 August 2018

English only

Human Rights Council
Thirty-ninth session
10-28 September 2018
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by ODHIKAR - Coalition for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14225(E)

1814225

Please recycle

Bangladesh: Demands from victim-families for the return of their disappeared relatives and the investigation of all incidents, remain unheard

Odhikar is deeply concerned over the continuous lack of response from the Government of Bangladesh to the repeated calls for investigating enforced disappearances, made by the families of the disappeared. The persistent denial of the government that enforced disappearances occur and its refusal to locate the whereabouts of the disappeared persons, clearly indicates the government's unwillingness to address the public outcry. Moreover, Bangladesh ignores calls for credible and visible actions made in communications by the UN Working Group on Enforced or Involuntary Disappearances (WGEID). The report on Bangladesh from the UN's High Commissioner of Human Rights also expressed concerns about the lack of investigations and accountability of perpetrators, regarding reported high rates of extrajudicial killings and reports of enforced disappearances and the excessive use of force by State actors.[1]

Despite the fact that the right to be protected by the law is guaranteed under Article 31 and 32 of the Constitution of the People's Republic of Bangladesh (which is recognised under Article 16 of the International Covenant on Civil and Political Rights as well), the scope to seek justice is almost non-existent due to the dysfunctional judicial system of Bangladesh. Families of the disappeared are unable to seek legal proceedings as the criminal law of the country does not recognise disappearance as 'crime'. Police officers do not record a General Diary (GD) against any member of law enforcement agencies involved in the alleged incident of enforced disappearance. In many cases, they have changed the language of the GD and recorded the incident as 'missing'. Moreover, filing habeas corpus writs do not bring any fruitful results either as the government stalls or ignores the orders to investigate. Many cases remain unreported as the state agencies keep intimidating and harassment the families.

A new trend of short-term enforced disappearance has emerged in Bangladesh as a means of creating a general state of anguish, insecurity and fear. This violates the right to personal liberty as well as freedom of expression and opinion, and freedom of peaceful assembly and of association. Demonstrators, rights activists, political analysts, leaders and activists of the opposition political parties, academicians, journalists – anyone having a dissenting opinion or critical against the government is at risk of facing short-term disappearances. The patterns of all the cases of short-term enforced disappearances in Bangladesh have three elements in common- deprivation of liberty against the will of the person concerned; allegations of the involvement of governmental officials - at least indirectly by tolerance, support or acquiescence; and the refusal to disclose the fate and whereabouts of the person picked up. The State security forces are enforcing such practices of short term enforced disappearances to gag and repress critical voices.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearance ("the 1992 Declaration", preamble); the Inter-American Convention on Forced Disappearance of Persons (Art. II); and the International Convention for the Protection of All Persons from Enforced Disappearance ("the 2006 Convention", Art. 2) states that the "placement of the victim outside the protection of the law" is conceived as an

[1] The Diplomat, 23 May 2018, "Rights Groups Criticize Bangladesh Government for 'Silence' on Enforced Disappearances", By Faisal Mahmud; https://thediplomat.com/2018/05/rights-groups-criticize-bangladesh-government-for-silence-on-enforced-disappearances/

inherent consequence of the offence.[2] In a recent incident– a quota reform movement[3] leader APM Suhel was allegedly picked up by some men claiming to be members of the Detective Branch (DB) of Police in the early morning of 12 July 2018 from a house at Chamelibagh in Dhaka. When his family searched for him, police informed them that DB Police had not arrested him. Later, in the evening, police acknowledged the arrest of Suhel.[4]

According to information gathered by Odhikar, at least 435 individuals were subjected to enforced disappearance allegedly by various law enforcement agencies from January 2009 to July 2018. Among them, 55 were found dead, 244 were released after being left blindfolded at a particular location or shown as arrested or produced before a court after several days or months following their disappearance, and the fate or whereabouts of 136 persons still remained unknown.

Despite claims of the families of the disappeared that the commissions of enforced disappearance exist in the country; the higher authority of the government repeatedly denies this. For instance, on 17 July 2018, the Home Minister Asaduzzaman Khan Kamal said, "incidents which are being called enforced disappearance are not exactly enforced disappearance. We are bringing them (the victims) in front of the public and it has been seen that they voluntarily disappeared after failing in love affairs or in business".5 Even though the commissions of enforced disappearances and extrajudicial killings and matters relating to impunity and injustice have been highlighted by Member States in Bangladesh's human rights review as a matter of grave concern, during the third cycle of the Universal Periodic Review (UPR) of Bangladesh on 14 May 2018 at the UN Human Rights Council in Geneva, the Law Minister Anisul Huq disagreed with the position that enforced disappearances occur in Bangladesh. Instead he said that the cases of abduction of some individuals are often reported as enforced disappearances; and there has been a tendency for quite sometimes to label all cases of missing persons as enforced disappearances. He said that this was being done with an obvious intention to malign the government and its achievements. He continued by saying that in many cases the perceived victims have reappeared, proving the allegations of so-called enforced disappearance false.[6] In reality, the survivors of enforced disappearances never speak in public about their experience, usually in fear of further reprisals. They live under continuous surveillance. The families of the disappeared also face continuous surveillance. Police and local authority often do not give permission to the victim families to organise protest rallies in demand of the return of the disappeared. Sometimes, after organising rallies and press conferences, police and other law enforcement agencies gave threats to the family members of the disappeared or made them agree not to speak in public otherwise they will face problems.

The continuous denial of the government to take action and give answers to the victim family members, indicates that disappearing people is one of the incumbent government's policies for retaining power. Bangladesh's dysfunctional judiciary fails in its responsibility of administering justice in cases of habeas corpus Writs. It is feared that incidents of enforced disappearance might increase ahead of the upcoming 11th Parliamentary Elections in December 2018 and leaders-activists of the opposition parties, human rights defenders

---

[2] http://www.sidiblog.org/2016/06/13/short-term-enforced-disappearances-as-a-tool-for-repression/

[3] In February 2018, University students commenced a demonstration calling for the reform of the quota system in government service. This demonstration became a movement and was attacked by police and supporters of the ruling political party.

[4] Odhikar Human Rights Monitoring Report, July 2018, page 22, available at http://www.odhikar.org/wp-content/uploads/2018/08/human-rights-monitoring-report-July-2018_Eng.pdf

[5] Ibid.

[6] See UN Web TV available at www.webtv.un.org.

and dissenters might be the victims of such crime.[7] Without establishing an inclusive participatory electoral democracy, the problems of disappearances cannot be addressed.

Odhikar urges the UN Human Rights Council to make the following recommendations to Bangladesh:

i. Ensure the independence of Judiciary and create an independent Judicial Probe Commission for investigating the allegations of enforced disappearances, leading to prosecution of all the cases of disappearances;
ii. Accede to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and criminalise enforced disappearance under domestic law;
iii. Take necessary measure to effectively hold perpetrators of enforced disappearances accountable through impartial investigation into allegations of such crimes and ensure access to justice to victims of enforced disappearances;
iv. Respond to all communications in relation to general allegations and cases of enforced disappearances transmitted to the government;
v. Issue an invitation to the UN Working Group on Enforced or Involuntary Disappearances (WGEID) for a country visit.

---

[7] Joint oral statement on enforced disappearances in Bangladesh by the Asian Forum for Human Rights and Development (FORUM-ASIA) and the World Organisation Against Torture (OMCT) submitted to 36th Regular Session of the UN Human Rights Council. https://www.forum-asia.org/?p=24796.